

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

23-CR-99-LJV

SIMON GOGOLACK, et al.,

Defendants.

**GOVERNMENT’S RESPONSE JOINING DEFENDANT SCOTT BARNES’S
MOTION FOR SEVERANCE, GOVERNMENT’S MOTION FOR A TRIAL DATE,
AND GOVERNMENT’S MOTION FOR A BRIEFING SCHEDULE**

THE UNITED STATES OF AMERICA, by and through its attorneys, Trini E. Ross, United States Attorney for the Western District of New York, Casey L. Chalbeck, Assistant United States Attorney, of counsel, hereby submits the following (1) response joining defendant Scott Barnes’s motion for severance; (2) motion for a trial date; and (3) motion for a briefing schedule.

A. The government joins in Mr. Barnes’s request for severance.

Mr. Barnes was indicted in January 2024 in the instant matter. In a May 2024 conversation with the undersigned, Mr. Barnes’s counsel raised the possibility of moving to sever Mr. Barnes’s case from those of his co-defendants. As defense counsel acknowledges, the undersigned and government co-counsel indicated that the government would not oppose a severance motion. *See* Aff. of David Cotter, at 7 ¶ 27, ECF No. 258, (dated Oct. 14, 2024). During the summer of 2024, the undersigned learned that another AUSA also advised defense counsel that he should file his motion for severance if he were concerned about pre-trial delay. On October 14, 2024, Mr. Barnes moved for severance. *See id.* Consistent with its

representation to Mr. Barnes's counsel five months ago, the government joins in Mr. Barnes's request for severance.

B. The government's motion for a trial date and status conference before the district court.

Provided the Court grants Mr. Barnes's motion for severance, the government moves for a trial date and status conference before the district court to discuss pre-trial scheduling.

C. The government's motion for a briefing schedule.

Mr. Barnes also moves to unseal the search warrant affidavit for the Outlaws MC clubhouse at 417 Northumberland Avenue, Buffalo, New York. *See* ECF No. 258 at 6 ¶¶ 20–22. Owing to the undersigned's involvement in the upcoming trial of Peter Gerace, Jr., in case numbers 19-CR-227 and 23-CR-37, as well as other briefing obligations in this matter, the government would request until November 4, 2024, to file any response in opposition to Mr. Barnes's motion to unseal.¹ The government would likewise consent to providing defense counsel three weeks (November 25, 2024), or such time as this Court deems just, to file his reply.

CONCLUSION

WHEREFORE, the government respectfully requests that the Court (1) grant Mr. Barnes's motion for severance; (2) schedule a status conference to discuss the government's motion for a trial date; and (3) enter a briefing schedule for Mr. Barnes's motion to unseal the search warrant affidavit for the search of 417 Northumberland Avenue, Buffalo, New York.

DATED: Buffalo, New York, October 14, 2024.

¹ The government asks that any briefing schedule the Court might issue be entered without prejudice to the government seeking an extension pending the outcome of its appeal of the Magistrate Court's sanctions order.

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